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C O N F I D E N T I A L SECTION 01 OF 02 CHENGDU 000035

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TAGS: ELAB ECON PGOV PHUM CH  
SUBJECT: CHONGQING ATTORNEY'S FIGHT FOR WORKERS' RIGHTS

CHENGDU 00000035 001.2 OF 002

CLASSIFIED BY: James Boughner, Consul General, Chengdu,  
Department of State.  
REASON: 1.4 (b), (d)

¶1. (SBU) Summary: During a recent discussion with us on the challenges he faces trying to advocate for the rights of migrant workers, former People's Liberation Army soldier and Chongqing attorney Zhou Litai stressed that economic and political realities are putting the viability of his law firm in doubt. Nevertheless, Zhou is trying to expand his practice and hopes to open a new office in a Three Gorges resettlement area. End summary.

¶2. (U) Consul General and Congenoff recently visited the Chongqing office of attorney Zhou Litai. Zhou and his firm have been featured in the international press, and he participated in the International Visitor Program in May 2005. In the past Zhou also received a grant for the publication of a book on labor rights in China from the Embassy's small grants program.

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RURAL ROOTS, RURAL SYMPATHIES  
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¶3. (U) Zhou's firm specializes in cases involving the rights of blue collar workers, especially migrants. A former farmer and soldier from Sichuan, Zhou described how he had migrated to Shenzhen in the early 1980s in search of factory work. After seeing the plight of workers there, he decided to study law, and became a licensed attorney in 1986. He opened the Chongqing office in 2001 and an office in Shenzhen in 2006. He now employs 21 attorneys and support staff. Zhou claimed that his firm had handled a total of 7000 cases to date, in every province and area of China except the Tibetan Autonomous Region.

¶4. (C) Although obviously proud of his work, Zhou expressed deep concern over the viability of his practice. First and foremost are economic concerns: despite his claim that his firm has won damage awards in 90 percent of the cases it accepted, those victories result in very little income for the firm. Zhou said court orders often go ignored by politically powerful SOEs and well-connected private enterprises. He also bemoaned the lack of a system for effectively collecting judgments.

¶5. (SBU) Zhou's firm prefers to operate on a "contingency fee"

basis, in which clients pay only if a monetary recovery is received. However, courts typically order awards to be made in the form of deposits into injured workers' savings accounts, and even when awards are paid, workers often disappear without paying the firm for its services. According to Zhou, Chinese law makes no provision for a "trust fund" arrangement, in which awards can be first paid to the law firm, and then turned over to the plaintiff after fees and costs had been deducted. Furthermore, said Zhou, a December 2006 State Council decree severely limited the right of lawyers to handle cases on a contingency fee basis. Since migrant workers rarely have enough money to retain a lawyer outright, the vast majority of Zhou's potential clients are unable to afford legal representation.

¶6. (C) Despite his financial woes, Zhou talked about plans for expanding his practice and his fight for the rights of migrants. He would like to open another office in Chongqing's Wanzhou City, an area affected heavily by Three Gorges Dam-related resettlement. (Note: In a previous conversation with another Congenoff, Zhou stated that he knew of 30 potential cases in and around Wanzhou, but that those individuals were unable to afford legal representation. End note.) He wants to publish portions of his case files, in an effort to document the history of workers' rights in China. He proposed the establishment of the "Zhou Litai Labor Rights Protection Institute," to further the development of China's labor laws. With his firm's profitability in doubt, Zhou expressed hope that he could continue to receive funding from (unnamed) foreign sources. He also asked whether it would be possible for the USG to fund the publication of his case files.

¶7. (C) Turning to the general question of workers' rights in China, Zhou opined that the climate for workers had improved somewhat in Guangdong due to the increased number of activist lawyers there, while he thought the situation in Zhejiang, Jiangsu, and other coastal provinces remains as grim as ever. Foreign-invested enterprises -- with the exception of Taiwan, Hong Kong, and Korean investors -- tended to treat their workers

CHENGDU 00000035 002.2 OF 002

much more fairly than domestic firms. Although he expressed the belief that China's central government is at last beginning to take the question of workers' rights seriously, he believes that local officials often act in a contrary fashion: "They just think of their own interests." Asked about the role of the All-China Federated Trade Union and similar organizations in protecting workers' rights, Zhou reacted with scorn: "It's just an agency of the government. All it does is steal their money."

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COMMENT  
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¶8. (SBU) The law office is decorated with numerous photographs -- Zhou standing proudly in front of the United States Treasury Building; Zhou in a barrister's outfit; Zhou posing with visiting foreign dignitaries and USG representatives. Very much a self-promoter, Zhou is nevertheless convincing in his determination to fight for the rights of China's downtrodden. Congen will maintain contact with Zhou and his firm, and will explore with Beijing and Washington the possibility of a small grant proposal related to rule of law development.

BOUGHNER